



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 28, 1995

Ms. Samita Mehta
Senior Attorney
Legal Services Division
Texas Natural Resource Conservation
Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR95-145

Dear Ms. Mehta:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 30362.

The Texas Natural Resource Conservation Commission (the "TNRCC") has received a request for information relating to a certain investigation into the alleged burial of hazardous waste at a welding and machine business in Corpus Christi, Texas. You have submitted the requested information to us for review and claim that section 552.101 of the Government Code in conjunction with the informer's privilege exempts it from required public disclosure.

The informer's privilege has been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 (1988) at 3; 208 (1978) at 1-2. You contend that the informer's privilege applies in this instance because the requested information identifies an individual who furnished the TNRCC with information regarding a violation of the law, that is, the burial of hazardous waste. *See Health & Safety Code* § 361.2215 (making it criminal offense to cause pollution).

We agree. The submitted information demonstrates that a person made a report of unlawful activity so as to motivate an investigation and possible prosecution for ground pollution. We have marked the submitted information to the extent that it identifies or tends to identify the informer. The remaining information, however, does not identify or tend to identify an informant and must be released in its entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Margaret A. Roll". The signature is written in a cursive, flowing style.

Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/GCK/rho

Ref.: ID# 29854

Enclosures: Marked documents

cc: Mr. Monty Nichols, II
5600 Agnes
Corpus Christi, Texas 78405
(w/o enclosures)